

Calendar No. 111

104TH CONGRESS
1ST SESSION

S. 419

A BILL

To grant the consent of Congress to the Texas
Low-Level Radioactive Waste Disposal Compact.

May 18 (legislative day, May 15), 1995
Reported without amendment

Calendar No. 111

104TH CONGRESS
1ST SESSION

S. 419

To grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15 (legislative day, JANUARY 30), 1995

Ms. SNOWE (for herself, Mr. COHEN, Mr. JEFFORDS, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MAY 18 (legislative day, MAY 15), 1995

Reported by Mr. HATCH, without amendment

A BILL

To grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Texas Low-Level Ra-
5 dioactive Waste Disposal Compact Consent Act”.

1 **SEC. 2. CONGRESSIONAL FINDING.**

2 Congress finds that the compact set forth in section
3 5 is in furtherance of the Low-Level Radioactive Waste
4 Policy Act (42 U.S.C. 2021b et seq.).

5 **SEC. 3. CONDITIONS OF CONSENT TO COMPACT.**

6 The consent of Congress to the compact set forth in
7 section 5—

8 (1) shall become effective on the date of enact-
9 ment of this Act;

10 (2) is granted subject to the provisions of the
11 Low-Level Radioactive Waste Policy Act (42 U.S.C.
12 2021b et seq.); and

13 (3) is granted only for so long as the regional
14 commission established in the compact complies with
15 all of the provisions of that Act.

16 **SEC. 4. CONGRESSIONAL REVIEW.**

17 Congress may alter, amend, or repeal this Act with
18 respect to the compact set forth in section 5 after the expi-
19 ration of the 10-year period following the date of enact-
20 ment of this Act, and at such intervals thereafter as may
21 be provided in the compact.

22 **SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.**

23 (a) CONSENT OF CONGRESS.—In accordance with
24 section 4(a)(2) of the Low-Level Radioactive Waste Policy
25 Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is

1 given to the States of Texas, Maine, and Vermont to enter
2 into the compact set forth in subsection (b).

3 (b) TEXT OF COMPACT.—The compact reads sub-
4 stantially as follows:

5 “TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL
6 COMPACT

7 “ARTICLE I. POLICY AND PURPOSE

8 “SEC. 1.01. The party states recognize a responsibil-
9 ity for each state to seek to manage low-level radioactive
10 waste generated within its boundaries, pursuant to the
11 Low-Level Radioactive Waste Policy Act, as amended by
12 the Low-Level Radioactive Waste Policy Amendments Act
13 of 1985 (42 U.S.C. 2021b–2021j). They also recognize
14 that the United States Congress, by enacting the Act, has
15 authorized and encouraged states to enter into compacts
16 for the efficient management and disposal of low-level ra-
17 dioactive waste. It is the policy of the party states to co-
18 operate in the protection of the health, safety, and welfare
19 of their citizens and the environment and to provide for
20 and encourage the economical management and disposal
21 of low-level radioactive waste. It is the purpose of this
22 compact to provide the framework for such a cooperative
23 effort; to promote the health, safety, and welfare of the
24 citizens and the environment of the party states; to limit
25 the number of facilities needed to effectively, efficiently,
26 and economically manage low-level radioactive waste and

1 to encourage the reduction of the generation thereof; and
2 to distribute the costs, benefits, and obligations among the
3 party states; all in accordance with the terms of this com-
4 pact.

5 “ARTICLE II. DEFINITIONS

6 “SEC. 2.01. As used in this compact, unless the con-
7 text clearly indicates otherwise, the following definitions
8 apply:

9 “(1) ‘Act’ means the Low-Level Radioactive
10 Waste Policy Act, as amended by the Low-Level Ra-
11 dioactive Waste Policy Amendments Act of 1985 (42
12 U.S.C. 2021b–2021j).

13 “(2) ‘Commission’ means the Texas Low-Level
14 Radioactive Waste Disposal Compact Commission
15 established in Article III of this compact.

16 “(3) ‘Compact facility’ or ‘facility’ means any
17 site, location, structure, or property located in and
18 provided by the host state for the purpose of man-
19 agement or disposal of low-level radioactive waste for
20 which the party states are responsible.

21 “(4) ‘Disposal’ means the permanent isolation
22 of low-level radioactive waste pursuant to require-
23 ments established by the United States Nuclear Reg-
24 ulatory Commission and the United States Environ-
25 mental Protection Agency under applicable laws, or
26 by the host state.

1 “(5) ‘Generate,’ when used in relation to low-
2 level radioactive waste, means to produce low-level
3 radioactive waste.

4 “(6) ‘Generator’ means a person who produces
5 or processes low-level radioactive waste in the course
6 of its activities, excluding persons who arrange for
7 the collection, transportation, management, treat-
8 ment, storage, or disposal of waste generated outside
9 the party states, unless approved by the commission.

10 “(7) ‘Host county’ means a county in the host
11 state in which a disposal facility is located or is
12 being developed.

13 “(8) ‘Host state’ means a party state in which
14 a compact facility is located or is being developed.
15 The State of Texas is the host state under this com-
16 pact.

17 “(9) ‘Institutional control period’ means that
18 period of time following closure of the facility and
19 transfer of the facility license from the operator to
20 the custodial agency in compliance with the appro-
21 priate regulations for long-term observation and
22 maintenance.

23 “(10) ‘Low-level radioactive waste’ has the
24 same meaning as that term is defined in Section
25 2(9) of the Act (42 U.S.C. 2021b(9)), or in the host

1 state statute so long as the waste is not incompatible
2 with management and disposal at the compact
3 facility.

4 “(11) ‘Management’ means collection, consoli-
5 dation, storage, packaging, or treatment.

6 “(12) ‘Operator’ means a person who operates
7 a disposal facility.

8 “(13) ‘Party state’ means any state that has
9 become a party in accordance with Article VII of
10 this compact. Texas, Maine, and Vermont are initial
11 party states under this compact.

12 “(14) ‘Person’ means an individual, corpora-
13 tion, partnership or other legal entity, whether pub-
14 lic or private.

15 “(15) ‘Transporter’ means a person who trans-
16 ports low-level radioactive waste.

17 “ARTICLE III. THE COMMISSION

18 “SEC. 3.01. There is hereby established the Texas
19 Low-Level Radioactive Waste Disposal Compact Commis-
20 sion. The commission shall consist of one voting member
21 from each party state except that the host state shall be
22 entitled to six voting members. Commission members shall
23 be appointed by the party state governors, as provided by
24 the laws of each party state. Each party state may provide
25 alternates for each appointed member.

1 “SEC. 3.02. A quorum of the commission consists of
2 a majority of the members. Except as otherwise provided
3 in this compact, an official act of the commission must
4 receive the affirmative vote of a majority of its members.

5 “SEC. 3.03. The commission is a legal entity separate
6 and distinct from the party states and has governmental
7 immunity to the same extent as an entity created under
8 the authority of Article XVI, Section 59, of the Texas
9 Constitution. Members of the commission shall not be per-
10 sonally liable for actions taken in their official capacity.
11 The liabilities of the commission shall not be deemed li-
12 abilities of the party states.

13 “SEC. 3.04. The commission shall:

14 “(1) Compensate its members according to the
15 host state’s law.

16 “(2) Conduct its business, hold meetings, and
17 maintain public records pursuant to laws of the host
18 state, except that notice of public meetings shall be
19 given in the non-host party states in accordance with
20 their respective statutes.

21 “(3) Be located in the capital city of the host
22 state.

23 “(4) Meet at least once a year and upon the
24 call of the chair, or any member. The governor of
25 the host state shall appoint a chair and vice-chair.

1 “(5) Keep an accurate account of all receipts
2 and disbursements. An annual audit of the books of
3 the commission shall be conducted by an independ-
4 ent certified public accountant, and the audit report
5 shall be made a part of the annual report of the
6 commission.

7 “(6) Approve a budget each year and establish
8 a fiscal year that conforms to the fiscal year of the
9 host state.

10 “(7) Prepare, adopt, and implement contin-
11 gency plans for the disposal and management of low-
12 level radioactive waste in the event that the compact
13 facility should be closed. Any plan which requires
14 the host state to store or otherwise manage the low-
15 level radioactive waste from all the party states must
16 be approved by at least four host state members of
17 the commission. The commission, in a contingency
18 plan or otherwise, may not require a non-host party
19 state to store low-level radioactive waste generated
20 outside of the state.

21 “(8) Submit communications to the governors
22 and to the presiding officers of the legislatures of
23 the party states regarding the activities of the com-
24 mission, including an annual report to be submitted
25 on or before January 31 of each year.

1 “(9) Assemble and make available to the party
2 states, and to the public, information concerning
3 low-level radioactive waste management needs, tech-
4 nologies, and problems.

5 “(10) Keep a current inventory of all genera-
6 tors within the party states, based upon information
7 provided by the party states.

8 “(11) By no later than 180 days after all mem-
9 bers of the commission are appointed under Section
10 3.01 of this article, establish by rule the total vol-
11 ume of low-level radioactive waste that the host state
12 will dispose of in the compact facility in the years
13 1995–2045, including decommissioning waste. The
14 shipments of low-level radioactive waste from all
15 non-host party states shall not exceed 20 percent of
16 the volume estimated to be disposed of by the host
17 state during the 50-year period. When averaged over
18 such 50-year period, the total of all shipments from
19 non-host party states shall not exceed 20,000 cubic
20 feet a year. The commission shall coordinate the vol-
21 umes, timing, and frequency of shipments from gen-
22 erators in the non-host party states in order to as-
23 sure that over the life of this agreement shipments
24 from the non-host party states do not exceed 20 per-

1 cent of the volume projected by the commission
2 under this paragraph.

3 “SEC. 3.05. The commission may:

4 “(1) Employ staff necessary to carry out its du-
5 ties and functions. The commission is authorized to
6 use to the extent practicable the services of existing
7 employees of the party states. Compensation shall be
8 as determined by the commission.

9 “(2) Accept any grants, equipment, supplies,
10 materials, or services, conditional or otherwise, from
11 the federal or state government. The nature, amount
12 and condition, if any, of any donation, grant or
13 other resources accepted pursuant to this paragraph
14 and the identity of the donor or grantor shall be de-
15 tailed in the annual report of the commission.

16 “(3) Enter into contracts to carry out its duties
17 and authority, subject to projected resources. No
18 contract made by the commission shall bind a party
19 state.

20 “(4) Adopt, by a majority vote, bylaws and
21 rules necessary to carry out the terms of this com-
22 pact. Any rules promulgated by the commission shall
23 be adopted in accordance with the Administrative
24 Procedure and Texas Register Act (Article 6252-
25 13a, Vernon’s Texas Civil Statutes).

1 “(5) Sue and be sued and, when authorized by
2 a majority vote of the members, seek to intervene in
3 administrative or judicial proceedings related to this
4 compact.

5 “(6) Enter into an agreement with any person,
6 state, regional body, or group of states for the im-
7 portation of low-level radioactive waste into the com-
8 pact for management or disposal, provided that the
9 agreement receives a majority vote of the commis-
10 sion. The commission may adopt such conditions
11 and restrictions in the agreement as it deems advis-
12 able.

13 “(7) Upon petition, allow an individual genera-
14 tor, a group of generators, or the host state of the
15 compact, to export low-level waste to a low-level ra-
16 dioactive waste disposal facility located outside the
17 party states. The commission may approve the peti-
18 tion only by a majority vote of its members. The
19 permission to export low-level radioactive waste shall
20 be effective for that period of time and for the speci-
21 fied amount of low-level radioactive waste, and sub-
22 ject to any other term or condition, as is determined
23 by the commission.

24 “(8) Monitor the exportation outside of the
25 party states of material, which otherwise meets the

1 criteria of low-level radioactive waste, where the sole
2 purpose of the exportation is to manage or process
3 the material for recycling or waste reduction and re-
4 turn it to the party states for disposal in the com-
5 pact facility.

6 “SEC. 3.06. Jurisdiction and venue of any action con-
7 testing any action of the commission shall be in the United
8 States District Court in the district where the commission
9 maintains its office.

10 “ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND
11 OBLIGATIONS OF PARTY STATES

12 “SEC. 4.01. The host state shall develop and have
13 full administrative control over the development, manage-
14 ment and operation of a facility for the disposal of low-
15 level radioactive waste generated within the party states.
16 The host state shall be entitled to unlimited use of the
17 facility over its operating life. Use of the facility by the
18 non-host party states for disposal of low-level radioactive
19 waste, including such waste resulting from decommission-
20 ing of any nuclear electric generation facilities located in
21 the party states, is limited to the volume requirements of
22 Section 3.04(11) of Article III.

23 “SEC. 4.02. Low-level radioactive waste generated
24 within the party states shall be disposed of only at the
25 compact facility, except as provided in Section 3.05(7) of
26 Article III.

1 “SEC. 4.03. The initial states of this compact cannot
2 be members of another low-level radioactive waste compact
3 entered into pursuant to the Act.

4 “SEC. 4.04. The host state shall do the following:

5 “(1) Cause a facility to be developed in a timely
6 manner and operated and maintained through the
7 institutional control period.

8 “(2) Ensure, consistent with any applicable fed-
9 eral and host state laws, the protection and preser-
10 vation of the environment and the public health and
11 safety in the siting, design, development, licensing,
12 regulation, operation, closure, decommissioning, and
13 long-term care of the disposal facilities within the
14 host state.

15 “(3) Close the facility when reasonably nec-
16 essary to protect the public health and safety of its
17 citizens or to protect its natural resources from
18 harm. However, the host state shall notify the com-
19 mission of the closure within three days of its action
20 and shall, within 30 working days of its action, pro-
21 vide a written explanation to the commission of the
22 closure, and implement any adopted contingency
23 plan.

24 “(4) Establish reasonable fees for disposal at
25 the facility of low-level radioactive waste generated

1 in the party states based on disposal fee criteria set
2 out in Sections 402.272 and 402.273, Texas Health
3 and Safety Code. The same fees shall be charged for
4 the disposal of low-level radioactive waste that was
5 generated in the host state and in the non-host
6 party states. Fees shall also be sufficient to reason-
7 ably support the activities of the Commission.

8 “(5) Submit an annual report to the commis-
9 sion on the status of the facility, including projec-
10 tions of the facility’s anticipated future capacity, and
11 on the related funds.

12 “(6) Notify the Commission immediately upon
13 the occurrence of any event which could cause a pos-
14 sible temporary or permanent closure of the facility
15 and identify all reasonable options for the disposal
16 of low-level radioactive waste at alternate compact
17 facilities or, by arrangement and Commission vote,
18 at noncompact facilities.

19 “(7) Promptly notify the other party states of
20 any legal action involving the facility.

21 “(8) Identify and regulate, in accordance with
22 federal and host state law, the means and routes of
23 transportation of low-level radioactive waste in the
24 host state.

25 “SEC. 4.05. Each party state shall do the following:

1 “(1) Develop and enforce procedures requiring
2 low-level radioactive waste shipments originating
3 within its borders and destined for the facility to
4 conform to packaging, processing, and waste from
5 specifications of the host state.

6 “(2) Maintain a registry of all generators with-
7 in the state that may have low-level radioactive
8 waste to be disposed of at a facility, including, but
9 not limited to, the amount of low-level radioactive
10 waste and the class of low-level radioactive waste
11 generated by each generator.

12 “(3) Develop and enforce procedures requiring
13 generators within its borders to minimize the volume
14 of low-level radioactive waste requiring disposal.
15 Nothing in this compact shall prohibit the storage,
16 treatment, or management of waste by a generator.

17 “(4) Provide the commission with any data and
18 information necessary for the implementation of the
19 commission’s responsibilities, including taking those
20 actions necessary to obtain this data or information.

21 “(5) Pay for community assistance projects des-
22 ignated by the host county in an amount for each
23 non-host party state equal to 10 percent of the pay-
24 ment provided for in Article V for each such state.
25 One-half of the payment shall be due and payable to

1 the host county on the first day of the month follow-
2 ing ratification of this compact agreement by Con-
3 gress and one-half of the payment shall be due and
4 payable on the first day of the month following the
5 approval of a facility operating license by the host
6 state's regulatory body.

7 “(6) Provide financial support for the commis-
8 sion's activities prior to the date of facility operation
9 and subsequent to the date of congressional ratifica-
10 tion of this compact under Section 7.07 of Article
11 VII. Each party state will be responsible for annual
12 payments equalling its pro-rata share of the commis-
13 sion's expenses, incurred for administrative, legal,
14 and other purposes of the commission.

15 “(7) If agreed by all parties to a dispute, sub-
16 mit the dispute to arbitration or other alternate dis-
17 pute resolution process. If arbitration is agreed
18 upon, the governor of each party state shall appoint
19 an arbitrator. If the number of party states is an
20 even number, the arbitrators so chosen shall appoint
21 an additional arbitrator. The determination of a ma-
22 jority of the arbitrators shall be binding on the party
23 states. Arbitration proceedings shall be conducted in
24 accordance with the provisions of 9 U.S.C. Sections
25 1 to 16. If all parties to a dispute do not agree to

1 arbitration or alternate dispute resolution process,
2 the United States District Court in the district
3 where the commission maintains its office shall have
4 original jurisdiction over any action between or
5 among parties to this compact.

6 “(8) Provide on a regular basis to the commis-
7 sion and host state—

8 “(A) an accounting of waste shipped and
9 proposed to be shipped to the compact facility,
10 by volume and curies;

11 “(B) proposed transportation methods and
12 routes; and

13 “(C) proposed shipment schedules.

14 “(9) Seek to join in any legal action by or
15 against the host state to prevent nonparty states or
16 generators from disposing of low-level radioactive
17 waste at the facility.

18 “SEC. 4.06. Each party state shall act in good faith
19 and may rely on the good faith performance of the other
20 party states regarding requirements of this compact.

21 “ARTICLE V. PARTY STATE CONTRIBUTIONS

22 “SEC. 5.01. Each party state, except the host state,
23 shall contribute a total of \$25 million to the host state.
24 Payments shall be deposited in the host state treasury to
25 the credit of the low-level waste fund in the following man-
26 ner except as otherwise provided. Not later than the 60th

1 day after the date of congressional ratification of this com-
2 pact, each non-host party state shall pay to the host state
3 \$12.5 million. Not later than the 60th day after the date
4 of the opening of the compact facility, each non-host party
5 state shall pay to the host state an additional \$12.5 mil-
6 lion.

7 “SEC. 5.02. As an alternative, the host state and the
8 non-host states may provide for payments in the same
9 total amount as stated above to be made to meet the prin-
10 cipal and interest expense associated with the bond indebt-
11 edness or other form of indebtedness issued by the appro-
12 priate agency of the host state for purposes associated
13 with the development, operation, and post-closure monitor-
14 ing of the compact facility. In the event the member states
15 proceed in this manner, the payment schedule shall be de-
16 termined in accordance with the schedule of debt repay-
17 ment. This schedule shall replace the payment schedule
18 described in Section 5.01 of this article.

19 “ARTICLE VI. PROHIBITED ACTS AND PENALTIES

20 “SEC. 6.01. No person shall dispose of low-level ra-
21 dioactive waste generated within the party states unless
22 the disposal is at the compact facility, except as otherwise
23 provided in Section 3.05(7) of Article III.

24 “SEC. 6.02. No person shall manage or dispose of any
25 low-level radioactive waste within the party states unless
26 the low-level radioactive waste was generated within the

1 party states, except as provided in Section 3.05(6) of Arti-
2 cle III. Nothing herein shall be construed to prohibit the
3 storage or management of low-level radioactive waste by
4 a generator, nor its disposal pursuant to 10 C.F.R. Part
5 20.302.

6 “SEC. 6.03. Violations of this article may result in
7 prohibiting the violator from disposing of low-level radio-
8 active waste in the compact facility, or in the imposition
9 of penalty surcharges on shipments to the facility, as de-
10 termined by the commission.

11 “ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT;
12 CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

13 “SEC. 7.01. The states of Texas, Maine, and Vermont
14 are party states to this compact. Any other state may be
15 made eligible for party status by a majority vote of the
16 commission and ratification by the legislature of the host
17 state, subject to fulfillment of the rights of the initial non-
18 host party states under Section 3.04(11) of Article III and
19 Section 4.01 of Article IV, and upon compliance with
20 those terms and conditions for eligibility that the host
21 state may establish. The host state may establish all terms
22 and conditions for the entry of any state, other than the
23 states named in this section, as a member of this compact;
24 provided, however, the specific provisions of this compact,
25 except for those pertaining to the composition of the com-
26 mission and those pertaining to Section 7.09 of this arti-

1 cle, may not be changed except upon ratification by the
2 legislatures of the party states.

3 “SEC. 7.02. Upon compliance with the other provi-
4 sions of this compact, a state made eligible under Section
5 7.01 of this article may become a party state by legislative
6 enactment of this compact or by executive order of the
7 governor of the state adopting this compact. A state be-
8 coming a party state by executive order shall cease to be
9 a party state upon adjournment of the first general session
10 of its legislature convened after the executive order is is-
11 sued, unless before the adjournment, the legislature enacts
12 this compact.

13 “SEC. 7.03. Any party state may withdraw from this
14 compact by repealing enactment of this compact subject
15 to the provisions herein. In the event the host state allows
16 an additional state or additional states to join the com-
17 pact, the host state’s legislature, without the consent of
18 the non-host party states, shall have the right to modify
19 the composition of the commission so that the host state
20 shall have a voting majority on the commission, provided,
21 however, that any modification maintains the right of each
22 initial party state to retain one voting member on the com-
23 mission.

24 “SEC. 7.04. If the host state withdraws from the
25 compact, the withdrawal shall not become effective until

1 five years after enactment of the repealing legislation and
2 the non-host party states may continue to use the facility
3 during that time. The financial obligation of the non-host
4 party states under Article V shall cease immediately upon
5 enactment of the repealing legislation. If the host state
6 withdraws from the compact or abandons plans to operate
7 a facility prior to the date of any non-host party state pay-
8 ment under Sections 4.05(5) and (6) of Article IV or Arti-
9 cle V, the non-host party states are relieved of any obliga-
10 tions to make the contributions. This section sets out the
11 exclusive remedies for the non-host party states if the host
12 state withdraws from the compact or is unable to develop
13 and operate a compact facility.

14 “SEC. 7.05. A party state, other than the host state,
15 may withdraw from the compact by repealing the enact-
16 ment of this compact, but this withdrawal shall not be-
17 come effective until two years after the effective date of
18 the repealing legislation. During this two-year period the
19 party state will continue to have access to the facility. The
20 withdrawing party shall remain liable for any payments
21 under Sections 4.05(5) and (6) of Article IV that were
22 due during the two-year period, and shall not be entitled
23 to any refund of payments previously made.

24 “SEC. 7.06. Any party state that substantially fails
25 to comply with the terms of the compact or to fulfill its

1 obligations hereunder may have its membership in the
2 compact revoked by a seven-eighths vote of the commis-
3 sion following notice that a hearing will be scheduled not
4 less than six months from the date of the notice. In all
5 other respects, revocation proceedings undertaken by the
6 commission will be subject to the Administrative Proce-
7 dure and Texas Register Act (Article 6252-13a, Vernon's
8 Texas Civil Statutes), except that a party state may ap-
9 peal the commission's revocation decision to the United
10 States District Court in accordance with Section 3.06 of
11 Article III. Revocation shall take effect one year from the
12 date such party state receives written notice from the com-
13 mission of a final action. Written notice of revocation shall
14 be transmitted immediately following the vote of the com-
15 mission, by the chair, to the governor of the affected party
16 state, all other governors of party states, and to the Unit-
17 ed States Congress.

18 “SEC. 7.07. This compact shall take effect following
19 its enactment under the laws of the host state and any
20 other party state and thereafter upon the consent of the
21 United States Congress and shall remain in effect until
22 otherwise provided by federal law. If Texas and either
23 Maine or Vermont ratify this compact, the compact shall
24 be in full force and effect as to Texas and the other ratify-
25 ing state, and this compact shall be interpreted as follows:

1 “(1) Texas and the other ratifying state are the
2 initial party states.

3 “(2) The commission shall consist of two voting
4 members from the other ratifying state and six from
5 Texas.

6 “(3) Each party state is responsible for its pro-
7 rata share of the commission’s expenses.

8 “SEC. 7.08. This compact is subject to review by the
9 United States Congress and the withdrawal of the consent
10 of Congress every five years after its effective date, pursu-
11 ant to federal law.

12 “SEC. 7.09. The host state legislature, with the ap-
13 proval of the governor, shall have the right and authority,
14 without the consent of the non-host party states, to modify
15 the provisions contained in Section 3.04(11) of Article III
16 to comply with Section 402.219(c)(1), Texas Health &
17 Safety Code, as long as the modification does not impair
18 the rights of the initial non-host party states.

19 “ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

20 “SEC. 8.01. The provisions of this compact shall be
21 broadly construed to carry out the purposes of the com-
22 pact, but the sovereign powers of a party shall not be in-
23 fringed upon unnecessarily.

24 “SEC. 8.02. This compact does not affect any judicial
25 proceeding pending on the effective date of this compact.

1 “SEC. 8.03. No party state acquires any liability, by
2 joining this compact, resulting from the siting, operation,
3 maintenance, long-term care or any other activity relating
4 to the compact facility. No non-host party state shall be
5 liable for any harm or damage from the siting, operation,
6 maintenance, or long-term care relating to the compact
7 facility. Except as otherwise expressly provided in this
8 compact, nothing in this compact shall be construed to
9 alter the incidence of liability of any kind for any act or
10 failure to act. Generators, transporters, owners and opera-
11 tors of facility shall be liable for their acts, omissions, con-
12 duct or relationships in accordance with applicable law.
13 By entering into this compact and securing the ratification
14 by Congress of its terms, no party state acquires a poten-
15 tial liability under section 5(d)(2)(C) of the Act (42 U.S.C.
16 Sec. 2021e(d)(2)(C)) that did not exist prior to entering
17 into this compact.

18 “SEC. 8.04. If a party state withdraws from the com-
19 pact pursuant to Section 7.03 of Article VII or has its
20 membership in this compact revoked pursuant to section
21 7.06 of Article VII, the withdrawal or revocation shall not
22 affect any liability already incurred by or chargeable to
23 the affected state under Section 8.03 of this article.

24 “SEC. 8.05. The provisions of this compact shall be
25 severable and if any phrase, clause, sentence, or provision

1 of this compact is declared by a court of competent juris-
2 diction to be contrary to the constitution of any participat-
3 ing state or of the United States or the applicability there-
4 of to any government, agency, person or circumstances is
5 held invalid, the validity of the remainder of this compact
6 and the applicability thereof to any government, agency,
7 person, or circumstance shall not be affected thereby to
8 the extent the remainder can in all fairness be given effect.
9 If any provision of this compact shall be held contrary to
10 the constitution of any state participating therein, the
11 compact shall remain in full force and effect as to the state
12 affected as to all severable matters.

13 “SEC. 8.06. Nothing in this compact diminishes or
14 otherwise impairs the jurisdiction, authority, or discretion
15 of either of the following:

16 “(1) The United States Nuclear Regulatory
17 Commission pursuant to the Atomic Energy Act of
18 1954, as amended (42 U.S.C. Sec. 2011 et seq.).

19 “(2) An agreement state under section 274 of
20 the Atomic Energy Act of 1954, as amended (42
21 U.S.C. Sec. 2021).

22 “SEC. 8.07. Nothing in this compact confers any new
23 authority on the states or commission to do any of the
24 following:

1 “(1) Regulate the packaging or transportation
2 of low-level radioactive waste in a manner inconsis-
3 tent with the regulations of the United States Nu-
4 clear Regulatory Commission or the United States
5 Department of Transportation.

6 “(2) Regulate health, safety, or environmental
7 hazards from source, by-product, or special nuclear
8 material.

9 “(3) Inspect the activities of licensees of the
10 agreement states or of the United States Nuclear
11 Regulatory Commission.”.

S 419 RS——2